

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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JAMES E. ZALEWSKI and DRAFTICS, LTD.,

Plaintiffs,

vs.

T.P. BUILDERS, INC. et al.,

Defendants

Civil Action No.  
1:10-cv-876 (GLS/RFT)  
(Lead Case)

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JAMES E. ZALEWSKI and DRAFTICS, LTD.,

Plaintiffs,

vs.

CICERO BUILDER DEV., INC. et al.,

Defendants

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Civil Action No.  
1:11-cv-1156 (GLS/RFT)  
(Companion Case)

**Exhibit "A"**  
to  
Declaration of **Lee Palmateer**  
Dated **August 20, 2012**

***AIPLA***

# **REPORT OF THE ECONOMIC SURVEY 2011**

**PREPARED UNDER DIRECTION OF THE  
AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION  
LAW PRACTICE MANAGEMENT COMMITTEE**

**STEVEN M. AUUIL, CHAIR  
DAVID A. DIVINE, VICE CHAIR**

July 2011

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**Estimated Litigation Costs:** Respondents were instructed to respond to these questions *“only if you have personal knowledge either as a service provider or as a purchaser of such services of the costs incurred within the relatively recent past, for the type of work to which the question pertains. In each of the questions, ‘total cost’ is all costs, including outside legal and paralegal services, local counsel, associates, paralegals, travel and living expenses, fees and costs for court reporters, photocopies, courier services, exhibit preparation, analytical testing, expert witnesses, translators, surveys, jury advisors, and similar expenses.”* Respondents were further instructed to estimate these based on a single IP asset, such as one patent at issue or one trademark.

**Location:** The metropolitan areas of Boston, New York City, Philadelphia, Washington (DC-MD-VA), Chicago, and Minneapolis–St. Paul include all localities—central city and surrounding areas—within the primary metropolitan statistical area. One state—Texas—had sufficiently large numbers of respondents to be reported separately. There were sufficient responses to breakout Los Angeles and San Francisco separately; California firms outside of those metro areas were included in “Other West.” Other categories exclude those named metropolitan areas.

LOCATION		
METROPOLITAN AREAS	PERCENT	COUNT
Boston CMSA*	4.7%	120
New York City CMSA*	8.8%	227
Philadelphia CMSA*	3.8%	98
Washington, DC CMSA*	16.5%	424
Other East: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and West Virginia	6.3%	162
Metro Southeast: Raleigh–Durham, Greensboro–Winston-Salem, and Charlotte, NC; Atlanta, GA; and Miami–Ft. Lauderdale–West Palm Beach, FL	3.7%	96
Other Southeast: North Carolina, South Carolina, Georgia, and Florida	2.7%	69
Chicago CMSA*	6.0%	154
Minneapolis–St. Paul PMSA**	4.0%	104
Other Central: Minnesota, North Dakota, South Dakota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Iowa, Nebraska, Kansas, Missouri, Kentucky, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, and Tennessee	16.8%	432
Texas	6.6%	171
Los Angeles CMSA*	3.2%	83
San Francisco CMSA*	5.8%	150
Other West: Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Nevada, Arizona, Washington, Oregon, California, Alaska, and Hawaii	11.1%	287
*CMSA: Consolidated Metropolitan Statistical Area— a metro area with a population of one million or more.		
**PMSA: Primary Metropolitan Statistical Area— a component of a CMSA.		



**Litigation-Copyright Infringement <\$1M End of Discovery (000s) by Location (Q45a)**

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	120	3	10	5	8	10	6	6	12	4	27	11	6	2	10
Mean (Average)	\$216	\$135	\$161	\$234	\$174	\$181	\$201	\$450	\$260	\$400	\$145	\$256	\$292	ISD	\$191
First Quartile 25%	\$100	ISD	\$88	\$135	\$50	\$50	\$74	\$250	\$105	ISD	\$50	\$100	\$175	ISD	\$100
Median (Midpoint)	\$200	\$100	\$175	\$250	\$118	\$150	\$200	\$350	\$225	\$250	\$110	\$250	\$250	ISD	\$150
Third Quartile 75%	\$271	ISD	\$250	\$325	\$200	\$281	\$325	\$750	\$388	ISD	\$200	\$300	\$413	ISD	\$250

**Litigation-Copyright Infringement <\$1M Inclusive, all costs (000s) by Location (Q45b)**

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	119	3	10	5	8	10	7	6	12	4	26	11	6	2	9
Mean (Average)	\$384	\$270	\$257	\$415	\$261	\$320	\$345	\$658	\$525	\$725	\$283	\$429	\$517	ISD	\$344
First Quartile 25%	\$175	ISD	\$119	\$263	\$89	\$96	\$200	\$450	\$163	ISD	\$108	\$200	\$338	ISD	\$165
Median (Midpoint)	\$350	\$300	\$238	\$500	\$200	\$300	\$300	\$575	\$500	\$500	\$250	\$400	\$525	ISD	\$300
Third Quartile 75%	\$500	ISD	\$363	\$525	\$388	\$513	\$500	\$1,000	\$775	ISD	\$405	\$500	\$675	ISD	\$350

**Litigation-Copyright Infringement \$1-\$25M End of Discovery (000s) by Location (Q45c)**

	Location														
	Total	Boston CMSA	NYC CMSA	Phila CMSA	Wash, DC CMSA	Other East	Metro South-east	Other South-east	Chicago CMSA	Minne.- St. Paul PMSA	Other Central	Texas	L.A. CMSA	S.F. CMSA	Other West
Number of Respondents	103	3	9	5	5	8	5	5	12	4	19	11	5	3	9
Mean (Average)	\$543	\$737	\$365	\$650	\$470	\$425	\$584	\$630	\$510	\$713	\$337	\$688	\$310	\$1,800	\$609
First Quartile 25%	\$200	ISD	\$100	\$225	\$225	\$78	\$135	\$500	\$200	ISD	\$180	\$200	\$125	ISD	\$200
Median (Midpoint)	\$400	\$200	\$300	\$500	\$400	\$288	\$600	\$500	\$450	\$575	\$250	\$500	\$400	\$1,400	\$250
Third Quartile 75%	\$750	ISD	\$525	\$1,150	\$750	\$663	\$1,025	\$825	\$794	ISD	\$500	\$900	\$450	ISD	\$1,188